

MINUTES
MALIBU CITY COUNCIL
SPECIAL MEETING
FEBRUARY 7, 2004
COUNCIL CHAMBERS
9:00 A.M.

CALL TO ORDER

Mayor Kearsley called the meeting to order at 9:03 a.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Ken Kearsley, Mayor Pro Tem Sharon Barovsky, Councilmembers Jeffrey Jennings and Andrew Stern. Councilmember House was absent.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Lloyd Zola, Local Coastal Program (LCP) Consultant; Masa Alkire, Assistant Planner, Mike Teruya, Planning Manager Paul Huckabee, Planning Consultant and Lisa Pope, City Clerk.

FLAG SALUTE

Norm Haynie led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Stern moved and Councilmember Jennings seconded a motion to approve the agenda. The motion carried 4-0, Councilmember House absent.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was properly posted on February 4, 2004.

ITEM 1A PUBLIC COMMENTS

None.

ITEM 1B COUNCIL COMMENTS

None.

ITEM 2 OLD BUSINESS

- A. City of Malibu Draft Local Coastal Program – Public Workshop on the City of Malibu Draft Local Coastal Program (LCP) (December 2003) Specifically Concerning Zoning and Permitted Uses, Transportation Demand Management, Public Access, Water Conservation, Non-conforming Uses, Permits, Subdivision, and Discussion of LCP Issues that were not Specifically Identified

Staff recommendation: 1) Review and discuss the City of Malibu Draft Local Coastal Program specifically concerning zoning and permitted uses, transportation demand management, public access, water conservation, non-conforming uses, permits, subdivisions, and discussion of LCP Issues that were not specifically identified; and 2) provide direction to staff on revisions as required.

Lloyd Zola presented the staff report and reviewed the proposed modifications to the Local Coastal Program Land Use Plan (LUP) and Local Implementation Plan (LIP).

Barry Haldeman, President of Californians for Local Coastal Planning, addressed the Council regarding LUP Section 4.43 and LIP Section 17.42.060 related to coastal protection structures or devices. He provided suggested language to be inserted in LUP Section 4.43 as the last sentence and inserted in the LUP to replace Sections 17.42.060B and C as follows: “Notwithstanding anything contained in the LUP and the LIP, structures of any kind that existed prior to the certification of the Malibu LCP and structures of any kind that are lawfully built after the certification of the Malibu LCP shall be granted the full protection of Public Resources Code Section 30235 as it existed at the time of certification of the LCP. No provision of the LUP or LIP shall be construed to limit such protection and no issuance of a Coastal Development Permit or other action of the City of Malibu shall be conditioned upon the waiver by any party of the benefits of such Public Resources Code Section 30235.”

Norm Haynie discussed fuel modification provisions included in the LCP.

Anne Hoffman discussed the importance of making some of the changes brought up by the public due to potential litigation. She discussed the mitigation fees charged by the Coastal Commission for fuel modification.

Mary Ayerst discussed Environmentally Sensitive Habitat Area (ESHA) and its meaning. She stated it was necessary to save what was indeed unique. She referenced the Bolsa Chica decision.

In response to Councilmember Jennings, Mr. Zola indicated that the Council previously addressed the issue raised by Mr. Haldeman.

Councilmember Jennings discussed Mr. Haynie's comments regarding fuel modification. Mr. Zola explained that the minimum development that becomes economically viable creates an impact and he would work with the City Attorney on the matter.

Mayor Kearsley indicated that the reasonable protection of property needed to be considered.

Anne Hoffman indicated she testified before the State appointed Blue Ribbon Fire Commission regarding the Coastal Commission's fee and that the Commission opposed the fee for fuel modification.

The Council discussed LIP Chapter 17.04, Definitions.

Councilmember Jennings discussed the statutory definition of development. He asked Mr. Zola what he had in mind for the definition of "Developed lot." Mr. Zola stated the definition would be one that would have a structure designed for human occupancy. He explained that placement of a storage shed or minor improvements on a site should not be considered development. In response to Councilmember Jennings, Mr. Zola stated the same definition as used in the Building Code would be utilized. Mr. Jennings stated a definition was necessary, but should be consistent with other laws. He requested the definition be brought back to Council with an explanation of its impact throughout the document.

In response to Mayor Kearsley, Mr. Zola explained the difference between "important cultural resource" and "unique cultural resource." Councilmember Jennings stated he did not see how the City could provide a different standard from that provided under the California Environmental Quality Act (CEQA). Mr. Zola explained that the change resulted from previous workshops, but suggested returning to the original language provided under CEQA. Councilmember Jennings asked if provisions in Chapter 17.44 were consistent with the City's resource preservation ordinance. Mr. Zola stated the chapter basically came from the ordinance.

CONSENSUS

By consensus, the Council agreed to return to the CEQA language regarding cultural resources.

Mr. Zola requested direction from the Council on whether or not to add a definition of wetland. He suggested using the Federal three-tiered definition using water, soil and plant type.

Mary Ayerst suggested using the California Code of Regulations definition for wetland.

Wade Major questioned how much time had to transpire before something that was a wetland ceases to be a wetland. Mr. Zola explained the basic format of determining wetlands. City Attorney Hogin clarified that the intent was to define wetlands and protect existing wetlands.

Councilmember Jennings discussed the Coastal Commission's use of ESHA and ESHA buffers. He requested staff to be mindful that fuel modifications do not apply unless they are in an ESHA or ESHA buffer. He reminded staff to be mindful that distinction was one that the City fought long and hard for at the Coastal Commission.

Anne Hoffman questioned the definition of intensification of use. In response, Mr. Zola suggested that the definition be reviewed.

Councilmember Stern discussed Beaches and Harbors' application for boats and suggested the definition be better defined.

Patt Healy questioned the basement and cellar definition. Mr. Zola stated the definitions currently existing in the Zoning Ordinance were retained. City Manager Lichtig explained that the City was in the process of doing a Zoning Text Amendment (ZTA) and as the definitions changed, they would be changed.

Patt Healy discussed the definition of an Environmental Review Board (ERB) and suggested the definition be stronger and require expertise in the area. Mr. Zola explained that there were other places defining the ERB. City Attorney Hogin stated it would not be appropriate to put substantive provisions in the definition section.

Patt Healy questioned the definition of stream. Mr. Zola stated the definition of stream was that used by Department of Fish and Game, including both the solid and dotted blue map lines.

Mayor Kearsley suggested that the definition of stream reference the United States Geological Survey (USGS) 14-minute series maps.

Mr. Zola explained that the proposed definition was that used for State permitting.

Patt Healy asked why the City had deleted “sacred artifacts” and “sacred sites” from the definition of Cultural Resources. Mr. Zola explained the City was using a more general and broader definition: “...contains information needed to answer important scientific research questions and demonstrable public interest in that information.” He indicated that the definition would include the “sacred sites.”

Mayor Pro Tem Barovsky suggested adding the words “including sacred sites.”

Norm Haynie stated it would get the City in trouble to just insert “sacred sites.” He discussed previous testimony from a Chumash who indicated “I just knew it was a sacred site.”

Councilmember Jennings suggested the definition in the LIP be the same as that in the City’s Cultural Resources Ordinance. Mayor Kearsley and Councilmember Stern concurred.

Ted Vaill expressed concern regarding the sections relating to appeals. He discussed the definition of aggrieved persons and suggested the definition be changed to be consistent with the Coastal Act.

Lloyd Ahern discussed LIP Section 17.42.020 and requested the Council ensure “in addition to any other policies or standards contained elsewhere in the certified LCP which may apply” was stricken.

Norm Haynie discussed the appeal process previously utilized by the Coastal Commission.

Mayor Pro Tem Barovsky asked why the system had changed. Mr. Haynie explained that the Coastal Act of 1976 ended the regional commissions. He explained the current appeal process to the Coastal Commission.

Councilmember Jennings questioned the term “aggrieved person.” He discussed provisions in the Coastal Act which talk about highly scenic areas being protected environments as sensitive resource areas. He indicated that he wanted to make sure that highly sensitive areas were not appealable. Mr. Zola indicated staff would make sure of that.

Mary Ayerst requested adding the footnote from the last page of her handout. She also suggested adding “As defined per California Code of Regulations Title 14, Section 13577.”

CONSENSUS

By consensus, the Council agreed to add the language “as defined per California Code of Regulations, Title 14, Section 13577.

Mr. Zola explained the proposed modifications to Chapter 17.08, Zoning and Permitted Uses.

Councilmember Jennings indicated the change in the chart was appropriate.

Patt Healy stated it was important that Transfer Development Credit (TDCs) be obtained if a condominium complex was developed. Mr. Zola indicated that townhouse, condominium and apartment projects would require TDCs. He indicated that the only exception was for affordable housing.

Councilmember Jennings asked why it was only applicable in planned development areas. Mr. Zola explained that planned development provided the ability to set standards on a project-by-project basis.

Mr. Haynie explained that he had provided an alternative to TDCs. He suggested the provisions he provided be incorporated, but expressed concern regarding spot zoning.

City Attorney Hogin stated it was not a problem on its face. She stated that spot zoning was applied where somebody was being discriminated against and disadvantaged.

CONSENSUS

By consensus, the Council agreed to keep the TDC program, but build in alternatives that the City has the right to apply if they achieve a superior environmental result.

Patt Healy questioned whether the City's TDC program was the transfer of development credits within the City rather than outside the City. She expressed her belief that it should occur within the City boundaries.

Mayor Pro Tem Barovsky indicated that the City was going to adopt a TDC program that was recognized by the Coastal Commission, but also to offer environmentally sensitive or superior alternatives to the TDC program.

Patt Healy expressed the belief that if you have to retire a lot under the TDC program it should be retired within the City.

The Council discussed the issues involved.

Mr. Zola indicated that the City's current Code contained transportation demand management.

Patt Healy stated that the City's overlay zones, under the General Plan and Zoning Ordinance, only apply to residential. She stated that because the word "residential" has been deleted you could now have commercial overlay zones. She indicated she did not believe that was the intention of the City's Zoning Code and General Plan.

Mr. Zola explained that the City has not changed the application of the overlay zone. He indicated that the reference was that the overlay zone would replace the standards of the residential development standards.

Patt Healy indicated her disagreement with the explanation.

Mr. Zola indicated there was never a limitation in the text to the overlay zones only being in residential zones. He explained that an overlay zone could be used to modify residential development standards.

City Attorney Hogin explained that it was a tool that the City wants especially in the commercial context where you want to be very specific. She indicated that an overlay district provides the ability to be even more restrictive.

Patt Healy indicated that it could also be more generous in terms of the development.

Mr. Zola, in response to Council questions, discussed how an overlay zone works.

Councilmember Jennings discussed Ms. Healy's concerns and ways in which they could be addressed.

City Attorney Hogin explained that the adoption of an overlay district was a legislative act that applies to a specific area.

CONSENSUS

By consensus, the Council determined to retain the current provisions regarding overlay districts.

Mr. Zola indicated that the transportation demand management section simply reflects what the City already had in its ordinance. He further indicated that Chapter 17.12, water conservation, also reflects the City ordinance.

Mr. Zola discussed Chapter 17.14.

Councilmember Jennings indicated it would be a difficult battle to win. He suggested the Council reconsider incorporating the City's ordinance in the LCP.

Ms. Hoffman discussed LIP Sections 17.14.040 A – E. She discussed grandfathering and its benefits.

City Attorney Hogin stated Chapter 17.14 was identical to the existing Municipal Code.

Ted Vaill stated it may be an uphill battle, but this area has the most direct impact to the residents of the City of Malibu.

Wade Major requested clarification on grandfathering. Councilmember Jennings clarified that the discussion was related to grandfathering provisions adopted by the City. City Attorney Hogin discussed the City's practice on grandfathering and determinations if no permit was available.

RECESS

Mayor Kearsley called a recess at 10:58 a.m. The meeting reconvened at 11:10 a.m. with Mayor Kearsley, Mayor Pro Tem Barovsky, Councilmember Jennings and Councilmember Stern present.

Norm Haynie discussed the term "structure" and suggested it be specifically defined. He discussed the implied philosophy of the Coastal Commission regarding existing uses.

City Attorney Hogin explained the difference between uses and structures. She explained that the Municipal Code amortized out non-conforming uses.

Anne Hoffman stated, according to the use matrix, horses could not be a use in an ESHA.

Mr. Zola stated staff would make merge the City's existing non-conforming provisions. He indicated that they would make sure that when the LIP gets implemented that the City does not take existing pasture lands, existing agriculture uses, making them non-conforming and throwing them under the amortization provisions.

CONSENSUS

By consensus, the Council agreed to direct staff to merge the City's provisions into the LIP and bring the matter back to the Council.

Patt Healy questioned where the Patriot Homes Overlay District, LIP Section 17.08.040.A.7., arose from. She stated she was informed that it came from settlement of a lawsuit. She discussed the square footage allowed for second dwelling units.

Dennis Seider suggested coordinating efforts related to beach parking with the Santa Monica Mountains Conservancy or Coastal Conservancy. He discussed the on-street parking requirement needed for a garage. He discussed the boundary issues referenced on Page 99, No. 24.

CONSENSUS

By consensus, the Council agreed to strike the words "or which purport to identify the boundary between State tidelands and private property" from No. 24, page 99.

Patt Healy discussed Section 17.08.080.A.5.b. regarding landscaping requirements.

CONSENSUS

By consensus, the Council directed staff to change LIP Section 17.08.080A.5.b to reflect Malibu Municipal Code Section 17.40.080.A.8.b.

Mr. Zola indicated the City's existing standards had been incorporated into Chapters 17.16 through 17.28 referring to various City permits, non-

coastal permits. He discussed Coastal Development Permits, Chapters 17.48 and 17.56. He indicated the major change was to eliminate the concept of retained jurisdiction, leaving jurisdiction with the Coastal Commission only for what is required.

Ms. Hoffman asked when the Coastal Commission released jurisdiction over permits it had approved. Mr. Zola explained the difference between the City's position and the Coastal Commission's position. City Attorney Hogin explained the Coastal Commission's explanation of "retained jurisdiction."

Norm Haynie discussed issues relating to constitutional rights. He discussed LIP Section 17.32, Native Tree Protection. He suggested applicants be required to locate the trees affected by a project.

CONSENSUS

By consensus, the Council agreed to look at the trees within the areas being graded or modified that are potentially impacted by the project.

Mr. Haynie discussed the issue of view shed and hillside development on page 196, Section 17.34.C.1.a.

Councilmember Jennings read the existing Municipal Code section related to Hillside Development, ridgelines.

CONSENSUS

By consensus, the Council agreed to limit the restriction to one mile.

Norm Haynie discussed LIP Section 17.34.050C2 and suggested a provision that provides that impermeable coverage can be greater if it is determined that permeable coverage would decrease geologic stability.

Mr. Zola explained the current Municipal Code section related to impermeable coverage.

Mayor Pro Tem Barovsky asked if there had been a problem with the provision. City Manager Lichtig stated she was not aware of any instance where a solution could not be found to balance the geologic conditions.

Mr. Haynie discussed LIP Section 17.34.050.H.1. and suggested trees not be required to be drought resistant.

Councilmember Jennings stated that he interpreted it to mean the Pacific Coast Highway right of way and not necessarily the property of property owners adjacent to Pacific Coast Highway. He suggested removing “along” and “limited to right of way.” Mr. Zola suggested the language “new plantings within the right of way” be included.

CONSENSUS

By consensus, the Council agreed to add the language “new plantings within the right of way.”

Ms. Hoffman discussed Coastal Development Permits. She explained that thousands of houses in Malibu have a requirement on the deed to get a Coastal Development Permit for all future development, including landscaping and minor improvements which are typically exempt under Section 30610 of the Coastal Act. She requested that the City add a provision that people with those deed restrictions can apply to the City for an amendment to restore the 30610 exemption.

Councilmember Jennings stated that the provision referred to those deed restrictions which required applicants to waive rights granted by the legislature.

CONSENSUS

By consensus, the Council agreed to implement the suggestion from Councilmember Jennings.

Mayor Pro Tem Barovsky asked why the City would require another geology report if someone had already done a thorough geology report to build his or her house.

Mr. Vaill stated it was important to have updated geology reports.

Councilmember Stern explained that geology changed over time.

Mayor Kearsley asked if archeology studies would change. Mr. Zola suggested a review be done to determine if the study met current standards.

Georgianna McBurney discussed LIP Section 17.32.010, Native Tree Protection. She expressed concern regarding following the Coastal Commission’s plan so closely.

Patt Healy indicated support for the six-inch standard. She questioned why Alder trees were not protected.

In response to Mayor Pro Tem Barovsky, Mr. Zola discussed standards for other cities. He stated staff would review the provision and come back to the Council.

Councilmember Jennings stated he would not recommend a change to this provision. He stated old trees would not be replaced because young trees would never be allowed to get to the standard size.

Mr. Zola discussed the value of the Alder tree.

David Kagon discussed the fragmented geology on his property. He discussed LIP Section 17.34.050.A1.4. and expressed concern regarding prohibiting removal of Sumac for brush clearance and fire safety. He discussed the cost of putting utilities underground as required in Section 17.34.050.A1.12. He discussed Section 17.34.050.B.5 regarding view corridor preservation. He discussed Section 17.34.050.B.6 and suggested that light shade should be eliminated. He indicated that placement of solar energy panels was determined by location of sun. He discussed Section 17.34.050.B.7 and Section 17.34.050.G and suggested security lighting should not be limited to 60 watts.

Ted Vaill discussed issues relating to feasibility. He suggested adding “and consistent with fire department regulations and other health and safety requirements of the City.”

Councilmember Jennings asked if his understanding that the provisions only apply to areas designated in the LUP as scenic resources was correct. Mr. Zola explained that different standards apply differently. Councilmember Jennings indicated that the section needed to break out “scenic areas” from “hillsides.”

Mr. Zola discussed the lighting issue indicating that they were trying to achieve a balance between safety and biology.

Councilmember Jennings indicated that the sections being discussed were the provisions that relate to ESHAs. He stated the City should make sure that the restrictions get applied only in those areas where they were absolutely justified.

Alan Rizeka suggested not limiting wattage of lighting, but rather limiting diffusion of light.

Councilmember Jennings suggested outdoor lighting be downward cast to minimize glare to the maximum extent feasible.

CONSENSUS

By consensus, the Council agreed to require lighting be downward cast to minimize glare.

Norm Haynie discussed LIP Section 17.34.050.D. and expressed concern bluff top setback. He suggested inserting “coastal” before “bluff top.”

CONSENSUS

By consensus, the Council agreed to insert the word “coastal” before “bluff top” in LIP Section 17.34.050.D.

Judy Decker asked whether Little Dume Cave Bluffs on Point Dume had been reduced. Mr. Zola indicated the Council had provided direction at the last workshop.

Wade Major asked if green was considered an earth tone color. Councilmember Jennings explained the process for selecting colors. Mr. Major questioned the rationale behind color selection. Councilmember Jennings stated the rationale was to prevent structures from standing out from the environment.

Anne Hoffman discussed prescriptive easements and suggested 17.30.060.C. be eliminated to remove the prohibition on fencing in ESHA.

Councilmember Jennings indicated that the past direction prohibited fencing in ESHA. He indicated the City went to a position where you could fence in order to have protection of a house and the area. He discussed provisions in the Civil Code relating to the right to pass through property.

Mary Ayerst discussed LIP, Section 17.30-30 relating to ESHA determination. She asked when the homeowner was required to do the site study.

City Attorney Hogin confirmed that there was a biological review by the City biologist. She stated that if there was an indication from the City

biologist that there might be ESHA, then the applicant would be required to do a biological review.

Mary Ayerst indicated there was a typo in Policy 3.61 of the LUP, page 54. She indicated that the City needed to add the word “not.” She discussed the use of the words “natural vegetation” in the LUP on page 54, 3.42. She indicated that there was no definition of “natural vegetation”. She stated “native vegetation” should be used in Policy Nos. 3.42 and 3.61.

CONSENSUS

By consensus, the Council indicated its agreement with Ms. Ayerst’s suggestions.

Mr. Seider suggested revising the ESHA maps. He indicated he had to leave and requested proceeding with comments on bulkheads. He discussed 17.46.010 and provided recommended modifications to the language in the purpose section.

CONSENSUS

By consensus, the Council agreed to modify the purpose section.

Mr. Seider provided suggested modifications to Chapter 17.46.020, New Development, Paragraph 2, Demolition and Reconstruction. He discussed the prohibition against using shoreline protective devices. He suggested adding “where there were no shoreline protective devices before.” He discussed Chapter 17.46.040, Character of Accessway Use. He discussed the provisions of Section 17.46.080. He asked that Mr. Zola review that provision. He discussed the minimum requirements section, and indicated that he did not believe the City should require access easements where there is no impairment of access as measured by the 1,320 foot nearby access. He suggested building into the system a user tax for people who come to Malibu to use the beach. He discussed the setbacks referenced in numbered paragraph 3 on page 230. He suggested that the City consider waiving setbacks when it demands vertical access. He discussed the problems surrounding prescriptive easements. He suggested that if the parties cannot work out the problem that it be submitted to litigation or binding arbitration. He indicated he does not want to see the City Council, at City expense, trying to resolve the issues. He read the provision on page 232, paragraph 3 regarding siting and sign requirements. He suggested limiting that to only those situation where there is no vertical access within 1320 feet. He indicated that he felt gates, guardhouses, barriers and other structures designed to regulate and restrict

access should be permitted within private street easements where they do not limit, deter or prevent pedestrian public access to the shoreline. He made the same recommendation regarding paragraph 4 on the same page. He discussed, on page 233, the section regarding offers to dedicate or grant of easement as they relate to mean high tide and seaward most extension of the existing home. He read a portion of paragraph H, implementation, on the page 233. He stated he did not like the idea of private associations maintaining public easements. He read from paragraph 4 on page 237. He suggested adding the sentence read: "Analysis of the effect of any identified changes the project will have upon the ability of the public to use...". He read from paragraph F on page 239. He stated that the State Land's Commission is in charge of tidelands. He stated that there is no way of saying whether or not something is going to have an impact on tidelands. He stated he didn't see why the City should be "ideologically high bound" to the Commission's positions or any other position regarding use and access of coastal resources. He discussed Paradise Cove. He suggested Malibu put something in the Local Coastal Plan to foster joint public-private efforts in the coastal zone to maximize public access. He stated he would like to see Paradise Cove opened again.

Norm Haynie stated that State Land's Commission does not have the staff to make a determination as to whether or not a particular development will have an impact on the mean high tide line. He suggested including a provision that says "to the extent that the State Land's Commission will provide information."

Councilmember Jennings stated that the provision should only require applicants to obtain whatever statement the State Land's Commission provided.

City Attorney Hogin stated that the Council could add a provision that if the State Land's Commission did not provide the information within 30 days of the request, then the applicant could rely on whatever information their private surveyor provided to complete their application.

Councilmember Jennings recommended making sure the language perpetuates the current practice.

CONSENSUS

By consensus, the Council agreed to change the language based on the language used by the State Land's Commission.

CONSENSUS

By consensus, the Council agreed to accept Mr. Seider's recommendations except those regarding easements.

Councilmember Jennings discussed the original submissions of the LCP Committee. He stated that the Council's goal was to come up with a document that meets the City's requirements and the requirements of State law. He indicated that as a practical matter the law essentially prohibits the extraction of new vertical or lateral accessways.

City Attorney Hogin discussed mitigation of impacts created by development.

Barry Haldeman proposed modifications to LUP Section 4.43 on page 80.

Patt Healy discussed protection for the resource protection areas. She indicated it was not carried over as an implementation measure.

Mr. Zola referenced Policy Nos. 3.22.A, B, and C. He indicated that those were general criteria for development within resource protection areas. He stated that staff had discussed moving those into the LIP and then replacing them in the Land Use Plan with the general policies that those were implementing.

CONSENSUS

By consensus, the Council agreed to move Policy Nos. 3.22.A, B and C into the LIP and replace them in the LUP with the general policies that they are implementing.

Patt Healy discussed protecting sensitive resource areas, such as coastal sage scrub.

Mary Ayerst requested clarification on page 180 of the LIP. She asked what uses were permitted in RPAs. She discussed the reference to non-glare glass on page 195. She suggested a change to non-reflective.

CONSENSUS

By consensus, the Council agreed to change the language from "non-glare" to "non-reflective."

Mr. Zola discussed what uses were permitted in RPAs.

Patt Healy discussed Section 17.30.070.C.2, agricultural uses in resource protection areas.

Norm Haynie asked if there was sufficient time to challenge an area that had been designated as an ESHA area. City Manager Lichtig suggested he provide a written submission to staff to have the area reviewed by the Mr. Zola and the City biologist.

Mr. Zola asked if the Council had any comments on Chapter 17.50.

Councilmember Jennings explained his interpretation of the subdivision map act. Mr. Zola explained the most recent map act.

Norm Haynie stated that certificates of compliance require a Coastal Permit which he felt was inappropriate. He stated that a certificate of compliance was a matter of right.

Councilmember Jennings indicated he believed that was true. City Attorney Hogin indicated that was correct. She indicated that staff would review the matter.

ADJOURN At 1:58 p.m., Mayor Pro Tem Barovsky moved and Councilmember Stern seconded a motion to adjourn in memory of John Harlow. The motion carried 4-0, Councilmember House absent.

Approved and adopted by the City Council of
the City of Malibu on March 22, 2004.

KENNETH KEARSLEY, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)